

ESTATE OF ISAAC WILLIAM ABDALLA
(Deceased Unallotted Yankton Sioux, U-1505)

IBIA 75-2

Decided July 16, 1974

Petition to reopen.

Granted.

Indian Probate: Reopening: Waiver of Time Limitation

To avoid perpetuating a manifest injustice, a petition to reopen filed more than three years after the final determination of the heirs will be granted where compelling proof is shown that the delay was not occasioned by the lack of diligence on the part of the petitioning party.

APPEARANCES: Robert Lee (Abdalla) Picotte, pro se.

OPINION BY ADMINISTRATIVE JUDGE WILSON

This matter comes properly before this Board on a petition to reopen, dated November 27, 1973, filed by Robert Lee (Abdalla) Picotte, hereinafter referred to as Petitioner, since more than three (3) years have elapsed following the Order Determining Heirs which became final on September 13, 1963.

The Petitioner sets forth the following reasons in support of his petition to reopen:

1. I was never informed, nor was I aware, of my father's death and subsequent probate hearing.
2. I have never resided on the Rosebud or Yankton Indian Reservations. At the time of the probate hearing, I was residing in Sonor, [sic] California.
3. The testimony given by Harriet Abdalla, sister of my father, failed to mention my existence as a living son and heir.
4. The reason that I am now requesting the reopening of this estate is that I was just recently advised by the Yankton Agency of my father's death and probate and of the omission of my name from the estate. This came about when I obtained my birth certificate, which is enclosed and submitted for the Yankton Agency's use as evidence to support my claim and for enrollment into the tribe.
5. For clarification, I use the name of my step-father, John A. Picotte, Sr. My mother, now deceased, married John A. Picotte, Sr., when I was an infant. I do not know the whereabouts of my step-father. All my attempts to locate him have been unsuccessful.
6. Since I am the son of Isaac William Abdalla and was not included as an heir to his estate, I do

hereby request that the estate be reopened in order that I may rightfully share in my father's estate.

Good and sufficient cause appearing, the petition to reopen should be granted and the matter remanded to the appropriate Administrative Law Judge for further proceedings and disposition.

NOW, THEREFORE, by virtue of the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the estate of Isaac William Abdalla, Unallotted Yankton Sioux, deceased, is HEREBY REOPENED and the matter is hereby REMANDED to the Administrative Law Judge with authority to conduct, after due notice to all parties in interest, whatever proceedings he deems necessary in the matter and for the issuance of an appropriate order consistent with the evidence adduced therein subject to the right of appeal by any aggrieved party.

Done at Arlington, Virginia.

Alexander H. Wilson
Administrative Judge

I concur:

David J. McKee
Chief Administrative Judge